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**Varieties of workplace dualization:** *A study of agency work in the German automotive industry*

## **1 Introduction**

In the last thirty years atypical work has been growing in all advanced political economies, including the so called Coordinated Market Economies (CMEs), which were traditionally characterized by homogenous outcomes in terms of wages and working conditions within the workforce (Emmenegger et al., 2012). This phenomenon of “labour market dualization” is attributed not only to structural shifts such as technological change and the expansion of services but also to labour market and welfare reforms supported by national-level coalitions between employers, political parties and unions. Traditional institutions of CMEs such as high employment protection and codetermination rights are argued to provide incentives to unions, which typically represent the interests of the core permanent workforce, to form coalitions with employers in support of reforms at the expense of the peripheral workforce (Palier and Thelen, 2010; Emmenegger et al., 2012).

This macro-level approach overlooks aspects which are fundamental for understanding the negotiation processes between labour and management underlying dualization in CMEs. By looking exclusively at national-level dynamics and institutions, the dualization literature largely neglects the role of power resources, which are deeply rooted in sectoral and workplace structures. It focuses on the role of actors’ preferences in the process of dualization, and especially labour preferences, rather than on the power resources available to counteract employers’ casualization strategies. Furthermore, it overemphasizes the stability of cross-class coalitions, while compromise between labour and management “is dependent on the degree to which institutions can protect it from pressures in the market” (Bélanger and Edwards 2007: 728) – pressures which are usually felt stronger by labour at workplace than at national level.

In order to shed light on these aspects, this paper investigates the variation of workplace bargaining arrangements about agency work across four similar plants in the German automotive sector. Automotive is a core manufacturing sector of the German dual economy, where collective bargaining institutions and unions are, at least formally, still strong (Bispinck and Dribbusch, 2011); and where works councils are claimed to cooperate with management at the expense of the marginal workforce (Hassel, 2014). Therefore, it represents a critical case for analysing how contextual factors and the availability of power resources affect negotiations over agency work at workplace.

Findings will show that the cross-plant variation in workplace arrangements for agency workers is due to the interaction between national-level institutional changes, the local context and the power resources labour could mobilize during the workplace negotiations with the management. Therefore, workplace arrangements were the primary outcomes of power dynamics at workplace rather than of labour preferences, and needed to be fought for, re-negotiated and defended. This evidence questions the narrative of the dualization literature about stable labour-management coalitions (Hassel 2014) and rather points at the ongoing micro-level conflicts between labour and management in the increasingly fragmented and deregulated German labour market (Streeck 2009). This paper demonstrates the value of incorporating workplace dynamics in national-level accounts of labour market dualization, thereby further developing the contribution of the industrial relations literature to political economy debates (e.g. Doerflinger and Pulignano, 2015; Pulignano and Keune, 2015).

This article develops as follows. The next section discusses the literature while the third section presents the methodology. The fourth section illustrates the case studies and the broad socio-economic context. The fifth section discusses the cases and concludes.

## **2 The role of labour in dual labour markets**

Dual labour market theory explained workforce segmentation through production and skill requirements and the political and economic resources of individual workers (Doeringer and Piore 1971, Osterman 1987). Shifting the focus from the firm to the national level, recent political economy research also claims that labour market dualization in CMEs is due to a combination of structural and political factors. Increasing pressure from global product and financial markets, the expansion of the service sector and technological change caused a shift in actors' preferences and a reconfiguration of actors' constellations at national level (Emmenegger et al. 2012). This process led to an increasing divide between "labour market insiders", who are full-time permanent employees mainly in well-established manufacturing industries, and "outsiders", who typically are low-end service sector employees, migrants and atypical workers. The preferences of insiders, represented by unions and social-democratic parties, moved away from working-class interests and became compatible with employers' preferences, who want to reduce production costs by deregulating the service periphery while retaining their core skilled workers. This coalition between employers and labour in manufacturing is argued to be responsible for the process of dualization between core manufacturing and service periphery (Palier and Thelen 2010).

The dualization literature primarily looks at institutional change and political dynamics at the national level and therefore focuses on political parties, employers' associations and national unions (Rueda 2005; Emmenegger et al. 2012). In contrast to this national level focus, Streeck

and Thelen (2005) argue that actors' behaviour at the micro-level is central to institutional change, which results from how individual actors re-enact, re-interpret and avoid existing institutions. Taking a Polanyian perspective, Streeck (2009) expands this framework suggesting that the study of the micro-foundation of institutional change should focus on "social action in relation to social institutions *under capitalism*" (p.238, italics in the original) as institutional change is the result of actors' struggles over (dis)embedding the capitalist economy (from)in market-constraining institutions. Some dualization scholars have incorporated micro-level dynamics in their analysis of labour market dualization in Germany, claiming that the plant-level agreements achieved by workplace cross-class coalitions strengthened labour market dualization between permanent skilled workers and atypical workers (Eichhorst 2014; Hassel 2014). However, they use only anecdotal micro-level evidence to support arguments on national trajectories of institutional change; also for this reason, their analysis neglects the conflictual dynamics underlying existing institutional arrangements at workplace.

In contrast, industrial relations research analyses in great depth how unions, using Streeck's words, "support principles of allocations other than competitive pricing in free markets" (p.234) and fight to impose social obligations on employers. Unions bargain arrangements protecting not only core workers from market competition such as promotion rules, wage scales and qualification requirements (Rubery 1978, Lautsch 2002) but also marginal workers (Doerflinger and Pulignano 2015; Håkansson and Isidorsson 2014). Bargaining outcomes are explained through power dynamics: even though often implicitly, scholars mostly use a "dispositional" concept of power, pointing out the ability of labour actors to use their power resources and to build them up in order to affirm their interests over employers' interests (Lévesque and Murray 2010: 335). The literature identifies three main sources of power.

Firstly, organizational resources rely on the mobilization of large segments of the workforce (Wright 2000); indeed, low-paid and precarious jobs are more strictly regulated in workplaces with high union density (Doellgast 2008). Secondly, structural power depends on the status of the represented workforce groups as skilled workers with key competences have more bargaining power (Wright 2000, Dörre 2008). Thirdly, labour law and collective bargaining institutions are crucial institutional power resources because they provide information, negotiation and codetermination rights to labour actors (Dörre 2008). Cross-national research in low-end services confirms that workplaces in countries with stricter regulation of atypical work and encompassing collective agreements are characterized by less precarious working conditions (Gautiè and Schmitt 2010).

Research on employment restructuring in MNCs suggests that labour can use other contingent power resources to strengthen their bargaining position (Meardi et al. 2009; Dupuis 2017). In their research in US MNCs in Europe Tempel et al. (2006) find that access to management at multiple decision points can increase labour bargaining leverage. Other workplace-level studies highlight the importance of “network embeddedness” (Lévesque and Murray 2010), which allows workplace representatives to build coalitions with e.g. national unions, local communities and social movements in order to challenge employers’ decisions. For instance, in their study on MNCs in France and Ireland Pulignano and Stewart (2012) find that the relationship with local authorities gave unions greater bargaining leverage over employment restructuring.

Levesque and Murray (2010) also argue that the exercise of power and the mobilization of certain power resources rather than others should be understood within the specific context, which provides “particular opportunity structures in a given circumstance (be they economic,

political, organizational, ecological)” (p. 336). For instance, high unemployment rates prevent labour from controlling the conditions under which the workforce is supplied (Grimshaw and Rubery, 1998). Societal discourses making workplace representatives co-responsible to save jobs limit their mobilization potential and bargaining leverage (Greer and Hauptmeier 2016). Employers’ strategies also contribute to trigger labour responses and encourage labour representatives to mobilize their power resources; studies e.g. in Ireland (MacKenzie, 2009) and in the US (Lautsch 2002) find that labour efforts to regulate atypical work depend on the extent to which growing atypical work undermine unions’ bargaining leverage and the future of the permanent workforce.

This paper claims that two main insights from the industrial relations literature should be integrated in the political economy debate about labour market dualization in CMEs. First, workplace arrangements should be interpreted as the outcome of conflict and re-negotiation rather than as the result of a mutual agreement between labour and management. Second, taking into consideration the heterogeneous power resources available at workplace and the context is essential to understand the use labour actors can make of their strongly institutionalized bargaining rights, and the extent to which they can effectively respond to employers’ segmentation strategies at workplace.

### **3 Methodology**

The plants were selected because they presented similarities in terms of production requirements and workplace industrial relations (see section 4) while they were characterized by a different use of agency work and agreements regulating it. This design allows uncovering how the availability and mobilization of power resources at workplace affect bargaining

arrangements over agency work and highlighting the linkages between national institutions and workplace dynamics.

The data concerning the status quo in the plants refer to the period 2010-2012. Findings are based on semi-structured interviews conducted between January 2011 and March 2013 either face-to-face or by phone. Semi-structured interviews were chosen because they allow interviewees to express their own views while, at the same time, providing comparable information thanks to the interview guide. Interviews with union officials, employee representatives and management were conducted in each plant with the exception of Auto1, where the management refused the interview twice due to the topic sensitivity. In each plant both union representatives and works councils were interviewed because of their different role in the German system of dual representation: while unionists are exclusively committed to representing the workforce, works councils are also committed to companies' interests, which might influence their accounts of the politics underlying workplace bargaining.

The interview transcripts (in German) were analyzed with Nvivo by using free nodes in order to capture the details of each case, which were then organized in trees through parent nodes. Interview findings were triangulated through company reports and agreements, union publications, newspaper articles, and the reports of the European Industrial Relations Observatory. A report summarizing the findings was sent to all interview partners.

#### **4 Cross-plant variation in bargaining outcomes**

The four plants differ in their size but are all big establishments, which are the most intensive users of agency work (Bellmann and Kühl, 2007). The case studies focus only on the blue-collar workforce in order to hold the production and skill requirements constant, which are highly standardized across German car companies (Jürgens, 2004).



The dimensions chosen for comparing the form of segmentation across cases are (similar to Osterman 1987): the proportion of agency workers; the typical length of assignment; the jobs performed by agency workers; the presence of equal pay between agency and permanent workers. The table below summarizes the variation in workplace arrangements:

TABLE 1

Auto1 has the highest proportion of agency workers (30%), who are employed even for years in skilled and unskilled job positions. Since 2009 a company-level agreement narrows the gap between standard workers and atypical workers. However, the maximum contract tenure is regulated only through the IG Metall collective agreement, which applies since 2012; furthermore, a quota of 12% was set only in 2012 to be achieved by 2015. Auto2 and Auto3 are “mid-way cases” as they both have a large workforce component of agency workers in direct production. At Auto2 agency workers constitute 30-40% of the workforce in direct production and at Auto3 the rate is around 20%. Auto2 is covered by the same agreement as Auto1. However, Auto1 and Auto2 use external staff agencies while Auto3 has two internal agencies; thus, agency workers at Auto3 have the same employer as the stable workforce, but not the same conditions. Furthermore, the company-level agreement at Auto3 was signed only in 2012, which set equal pay for agency workers after nine months of employment, and the maximum contract tenure up to 36 months, after which agency workers need to be offered a permanent contract. Auto4 is characterized by a small periphery of agency workers (3-5%) employed for unskilled tasks and for limited periods; agency workers are covered by the metal agreement since 2003 so they benefit of the same wages and working conditions of the permanent workforce. Furthermore, the company-level agreement sets that agency workers

should be offered a permanent contract at the end of their assignment, depending on the company's hiring needs.

The cross-company variation represents an empirical puzzle as many factors which typically explain differences in employers' use of atypical work cross-cut the outcomes. Table 2 reports the main plant characteristics and the relevant dimensions.

TABLE 2

According to Lippert et al. (2014), companies more exposed to financial markets tend to implement human resource practices aimed at compressing labour costs (e.g. cheap and flexible contracts) in order to serve the short-term interests of shareholders. This pressure is present and comparable across the three MNCs because institutional investors and private-equity firms own a considerable amount of their shares; at the same time, they are partly “sheltered” because they are controlled respectively by one dominant investor who has a greater share of voting rights (see definition in Lippert et al. 2014: 77).

Product characteristics were found to influence the use of atypical work at company level (Appelbaum et al., 2000). High-quality products are typically associated with permanent employment because the complex production process requires a committed and specialized workforce; e.g. the “diversified quality production” in the German manufacturing sector (Streeck, 1991). However, the product quality cross-cuts the different segmentation outcomes at workplace level. Auto3 and Auto4 are mass producers while the company of Auto1 and Auto2 is a luxury car producer. Furthermore, products are similarly “diversified” as they are available in several variants and can be customized by clients. Still, the rate of agency workers

is lowest at Auto4 and highest at Auto1, while agency work has similar characteristics at Auto2 and Auto3.

Similarly, the literature on the US-MNCs would expect Auto4 to be characterized by a Tayloristic work organization, flexible employment relations and authoritarian labour-management relationship because of the employment relations tradition of the home country (Festing 2012). However, Auto4 is characterized by the lowest use of agency work and the most encompassing agreement.

The exposure to volatile international markets was also argued to affect the use of atypical work as companies need a flexible periphery, which can be used as a buffer in order to protect the core workforce while quickly reducing the headcount (Kalleberg et al., 2003). However, the high rates in Table 2 show that all three companies mainly produce for export.

The use of agency work did not reflect the economic conditions of the company even though economic uncertainty might prevent developing a long-term staffing strategy (Rubery, 1994: 48). In the company of Auto1 and Auto2, the market share was increasing between 2001 and 2009 until it dropped in 2010 and then started growing again the following year even beyond the 2008 levels. The Ford market share in Europe has been declining since 2007, which is the export market of Auto4, while at Auto3 it has been increasing since 2005.

Traditional institutionalist explanations also fall short to explain the cross-plant variance. The dualization literature cannot make sense of the variation because all plants are embedded in the same national institutional context, which is supposed to affect the preferences of labour actors. Works councils also benefit of comparable institutional and organizational power resources as

they all have the same information and codetermination rights and the plants are characterized by high union density, which is between 85% and 95% at Auto2, Auto3 and Auto4, and it is lowest, even though still quite high, at Auto1 (around 65%). Given that production requirements are similar across all plants, the structural power of labour is also comparable.

## **4 Empirical evidence**

### *4.1 The context*

The German automotive sector was traditionally characterized by a vertically integrated value chain and a stable specific-skilled workforce. Encompassing sectoral agreements, implemented at company level by works councils, ensured homogenous outcomes for the whole workforce. Since the Nineties, however, the traditional German production model has been eroding. As the exposure of German companies to financial markets and to international competition from cheaper production sites increased, employers have progressively exited wage-setting institutions and restructured the production adopting lean and flexible human resource systems in order to compress labour costs and to maximise shareholder value (Streeck 2009; Holst et al. 2009). As a result, sectoral bargaining coverage in the metal sector has been declining, and automotive companies have made increasing use of subcontractors and staff agencies, which are often not covered by sectoral agreements (Doellgast and Greer 2007). They also organized the value chain into modules which could be carried out by suppliers abroad, and began outsourcing, especially to Eastern Europe (Jürgens and Krzywdzinski 2006). The credible threat of outsourcing and the public debate over the future of German manufacturing put pressure on unions and works councils to accept concessions at workplace level; as a result,

opening clauses spread across the sector, amending collectively agreed wage and working time standards (Bispinck and Dribbusch 2011).

In addition to the pressure on sectoral bargaining and workplace codetermination, national reforms progressively deregulated the use of atypical work. Between 1985 and 2002 the length of assignment was extended from 3 to 12 months but the most significant deregulation of agency work was introduced in 2003 through the Hartz reforms. The reform allowed hiring on agency contracts without specifying the reason for the fixed term and without offering any guarantee of permanent hiring afterwards. Agencies could employ agency workers on contracts which lasted only until the end of their assignment at the hiring company. The equal pay principle was amended by collective agreement, which set much lower wages than in the metal sector due to unfair competition from the Christian unions (Ferreira 2016).

In the metal sector IG Metall started a campaign for organizing agency workers and bargaining on their behalf. In 2010 the union achieved an agreement setting equal pay for agency workers in the steel industry; two years later, a collective agreement was signed in the metal sector setting stronger codetermination rights on the use of agency work, maximum contract tenure (24 months) and wage bonuses, which (partly) compensate for agency workers' low wages. Since 2011 the legislation on agency work has improved: permanent workers cannot be dismissed and then re-hired on agency contracts under worse standards of wages and working conditions, the employment of agency workers can only be "temporary" and a minimum wage apply to agency workers valid in all sectors (Benassi and Dorigatti 2015).

#### *4.2 Case studies*

This section presents the empirical evidence case by case illustrating 1) the local political and economic context of the plant; 2) the use of agency work at plant level; 3) the power dynamics underlying the bargaining outcomes.

### *Auto1*

Auto1 is a ‘greenfield’ plant, which opened in 2007 in Eastern Germany, in a political and economic context extremely unfavourable to labour. Before being set up, the plant was benchmarked against others in Eastern Europe, putting constraints on the personnel costs. Furthermore, in the region the unemployment rate was around 17-18% at the beginning of 2000s, when the negotiations between labour, management and the local authorities started (Bundesanstalt für Arbeit, 2000). As a consequence, the local government and the mayor, who was also a member of the Hartz Commission, supported the use of agency work as job-creating instrument. The management could take advantage of the Hartz reforms and of high unemployment rates, which pushed even skilled workers into temporary contracts. A works councilor reported:

“When it became clear that the legislator would liberalize agency work, they [*the management*] immediately said: ‘Ok, we’ll reduce the stable core workforce; we’ll hire only the minimum number of permanent workers because this threshold is linked to the funding of the European Union’. And this minimum was 2,700. And Auto1 has filled all jobs above that number with agency workers [*N.B. one third more*]. When the company grew, they tried to maintain this rate” (WC, 20.04.2012)

Furthermore, Auto1 has an on-site supplier park, which employs 2,200 workers.

The Hartz reforms and the general consensus that employment should be boosted at any cost limited the works council’s bargaining power, as reported by the works councilor:

“...we could only sit at the same table and try to convince our bargaining partner on a voluntary basis. [*the management said*]: ‘yes, works council, you are right but we’ll do it our way now’...And the management also said: ‘we are completely free according to the law, it doesn’t limit agency work, [...] dear works council. We are absolutely legitimate’” (WC, 20.04.2012)

Under these conditions, the works councilor said that “the instruments to put the management under pressure should be built up in different forms through the public opinion, through the unions and so on” (WC, 20.04.2012). Despite strong linkages with IG Metall, the union did not offer immediate support to the works council, “looking the other way for too long” regarding the issue of agency work (WC, 20.04.2012). Thus, the works council went public in order to put the management under pressure. Auto1 was strongly present in the media and in internal union material and became one of the symbols of employers’ exploitation of agency workers during the IG Metall campaign.

In 2011 the works council set up five court cases against the management at the local labour court once the new German Temporary Employment Act stated that agency work can be used only “temporarily”. The aim was to force the management to agree on limiting the use of agency work even before the labour court reached its final decision. In 2012 the management won the first case but the works council did not withdraw the other four cases because it did not want to release the legal and mediatic pressure during the ongoing bargaining round on agency work at Auto2. Agreements setting equal pay and quotas were achieved at Auto2 respectively in 2009 and 2012 and then extended to Auto1 (see below).

### *Auto2*

At Auto2 the local economic conditions were more favourable to labour than at Auto1 given that unemployment rates have always been between 3.5 and 7% since 2002 (Bundesagentur

für Arbeit, 2012). Given the low unemployment rates, unskilled workers and agency workers were employed at the assembly line since the Nineties because skilled workers would leave for other companies if asked to perform unskilled jobs. Agency workers were also hired to perform heavy tasks and when planned technological innovations were expected to make many permanent workers redundant. In this way, the management and the works council prevented the transfer of redundant workers from one production unit to another so that the original teams could be maintained.

The works councils tolerated agency work to a certain extent because the presence of a flexible periphery relieved pressure on core workers; furthermore, the legislation on equal pay limited the risk of wage dumping until the Hartz reforms. After the reforms, however, the use of agency workers intensified in production even though it remained below the level at Auto1. The union representative who first brought up the issue to the works council was interviewed: In 2007 he was working at the assembly line together with agency workers and was genuinely shocked when they told him that they were paid €5.65 per hour compared to the €12-14 per hour paid to the permanent workforce. The incident represented the start of the engagement of the works councils in order to counteract the increase of cheap agency work within the company. As a result, the works council pushed for an agreement regulating the phenomenon, which had to be extended to all plants.

Differently from Auto1, the works councilors were confident in their power to influence the management, especially thanks to the traditional social partnership between the head of the general works council and the management. Still, the management refused to regulate agency work until the local IG Metall union intervened in support of the negotiations. The workplace representatives recognized that the union has more influence because it can mobilize workers



and present politically sensitive issues to public scrutiny as it is not committed to company's interests. A union representative (11.09.2012) explained:

“as works councilors we can be blackmailed (...) because the company says: ‘Either you come to an agreement on agency work or we outsource the whole assembly line’”.

Thus, the local IG Metall Secretary, who was in the supervisory board, threatened to organize a demonstration and to park a truck in front of the company's experience museum, with a sign reading: ‘This is the slave temple of agency work’. A works councillor (10.09.2012) confirmed that “it would not have worked out without the IG Metall” because the union provides “publicity, structures, and support material”.

As a result, all plants of the company were covered by the same company-level agreement negotiated at Auto1 in 2009, which provides that agency workers are paid according to the metal agreement. Despite focussing primarily on avoiding redundancies among core workers during the crisis, the works council also bargained over the hiring of agency workers, and in September 2012 it negotiated 3,000 permanent positions for agency workers across all plants, in exchange for increased flexibility of working-time accounts for the core workforce. In November 2012 the company agreed on a quota of 12% to be achieved by 2015.

### *Auto3*

Auto3 is characterized by a similar socio-economic context as Auto1. At the end of the nineties the unemployment rate reached 18% and then dropped gradually down to 6.6% in 2011 (Bundesagentur für Arbeit, 2000; 2012). Furthermore, similarly to Auto1, policy-makers contributing to the Hartz reforms and the local government - one of the main company's

shareholders - were involved in staff planning. Between mid-nineties and early 2000s this political constellation and the public consensus on saving jobs at any cost put great pressure on the works council to adopt job-creating measures in the plant. As a result, in that period the works council agreed to bargain low-tier agreements for some new production segments and for industrial services. Furthermore, it allowed on-site subcontractors so that “the only person who knows [*how many workers there are on site*] is the gate keeper who can recognise who has an Auto3 badge or not” (IG Metall official, 24.09.2012).

The concession bargaining included also temporary and agency work. In 1997 the works council agreed on the employment of temporary workers on a 10% lower wage but rejected the management plan to set up an internal staff agency. A few years later, the works council gave in and two internal staff agencies were eventually founded and presented as “a gift to the city” in order to halve the unemployment rate (MGMT, 09.07.2012). A company-level agreement set a quota of 5% on the whole workforce, thus allowing higher rates (even over 20%) in unskilled positions (e.g. assembly line). The workers of the two internal staff agencies were covered since 2003 by a less favourable collective agreement than the one for core employees even though additional payments were progressively bargained for the agency workers employed at Auto3 and its subsidiaries.

Workers’ representatives seemed confident about their ability to keep the process of segmentation under control. Auto3 is characterized by a triangular constellation between the works council, the management and IG Metall. The union density is around 95% and workers’ representatives and management collaborate very closely. Thanks to these close ties, Auto3 sets its own agenda independently from the national union and, as a works councilor said (25.04.2012), “it is always a few steps ahead”. This partnership between works councils and

management is so close to be controversial within the German labour movement. For instance, while admiring the institutional and organizational power of the Auto3 works council, an Auto2 works councilor (10.09.2012) specified that in their company, in contrast to Auto3, the works council and the management “are two different businesses, they know each other well, they treat each other with respect but that’s all there is to it and this is what we want”.

Despite the solid plant-level industrial relations, the use of agency work changed after the crisis in 2008/09, as the management learned to appreciate the presence of an easy-to-fire workforce and, as the economic situation improved, they started using agency work even beyond the bargained quotas. Similarly to Auto2, employers’ increased use of agency work triggered a strong regulatory action of the works council, which used its internal influence for bargaining a new agreement. In the meantime, the public opinion on agency work had changed also thanks to the previously mentioned IG Metall campaign, the local unemployment rate was the lowest in decades and the economic situation of the company had improved. In November 2012 a company-level agreement was signed, which is now applied in all Auto3 establishments: first, agency workers have right to the same pay as core employees after nine months of employment at Auto3. Second, agency workers can benefit of training even though it is not comparable to the dual vocational training. Third, agency workers need to be offered a permanent job position after 36 months of employment. As a result of this agreement, in 2013 1,800 agency workers were offered a permanent position at Auto3; the following year, further 360 agency workers were hired permanently.

#### *Auto4*

The works council at Auto4 did not suffer from the pressure of unemployment, which has been around 8-10% since mid-nineties (Bundesagentur für Arbeit, 2000/2012), also because the

company is not the main employer in the region as in the case of Auto1 and Auto3. Still, already in the nineties the works council agreed on concessions in regard to pay and working time in order to avoid, at least partly, outsourcing. At the beginning of 2000s, a supplier park was created, which is connected to the assembly line of Auto4 through a conveyor belt. However, the works councils managed to keep the most skilled jobs in house and to maintain onsite industrial services under the metal agreement. Furthermore, it prohibited onsite subcontracting, forcing the management to turn subcontractors into agency contracts, which could be better regulated.

Differently from the other plants, the works council regulated agency work few months before the Hartz reforms were passed. In the case of agency and temporary work, the primary aim of the works council was to avoid that those workers repeatedly asked for help from the works council in order to get a permanent position because the management would only just renew their temporary contracts. To this aim, the works council bargained the agreement as soon as they “saw the problem coming” due to the public debate on flexible labour markets and the upcoming reforms (WC-2, 19.04.2012). According to the works councillors, signing the agreement before the Hartz reforms and the DGB collective agreement was a lucky and determinant political intuition because these provisions legitimated the use of cheap workforce and, therefore, would have undermined works councils’ bargaining power (WC-1 and WC-2, 19.04.2012).

In order to achieve the agreement, the works council exploited a window of opportunity as the company was commissioned new car models in a very short time. As the management needed to quickly hire new employees, the works council prevented the hiring of agency workers without an agreement setting a maximum quota for agency workers and clear transition rules

to a permanent position. This circumstance favoured the works council, because “the short-term pressure, under which the management is, naturally leads to better bargaining positions” (WC-1, 19.04.2012). This strategy was particularly effective at Auto4 because the works councillor could exploit the pressure from the US top management onto the local management to increase productivity and competitiveness. This makes the local management more vulnerable to production disruptions and stoppages because they need to “make the ends meet”, which also entails coming to an agreement with the works council on the conditions under which the productivity objectives can be achieved (WC-2, 19.04.2012).

According to the resulting company-level agreement, agency workers are covered by the metal agreement and are given priority if there are vacancies for permanent positions. Their contracts can be renewed up to three times and the IG Metall agreement applies in regard to the maximum temporary contract tenure (24 months). The agreement sets a quota of 3% only in direct production, including both agency and temporary work, who can be hired only to replace workers on leave or during production peaks. The quota can be raised up to 8% when there is a temporary staff need due to two production lines running parallel. The works council managed to keep the same agreement despite the management sometimes pushed for using agency workers in order to compress labour costs and to increase flexibility. It recently agreed on setting a three-shift system in the motor building plant and a flexible shift system in direct production for the permanent workforce but managed to leave the agreement on agency work untouched.

## **5 Discussion and conclusion**

This paper explained the variance in collectively agreed arrangements on agency work across four German automotive plants, which differed in the extent to and the conditions under which

agency workers were employed. Auto1 represents an extreme case as 30% of the workforce consisted of agency workers employed for long periods and also in skilled positions. Auto4, on the other side, had a small periphery of agency workers only in direct production, which was regulated by means of quotas, equal pay and transition rules. Auto2 and Auto3 are mid-way cases with a large periphery of agency workers in direct production, which has been progressively and partly regulated. At Auto2 and Auto1 an equal pay agreement applies since 2009 but there is only a loose quota of 12% to be achieved in 2015 and no automatic mechanism for hiring agency workers permanently. At Auto3, agency workers are hired through internal staffing agencies, there are progressive rules for equal pay, a loose quota of 5%, and the obligation to permanent hiring after 36 months of assignment.

The bargaining outcomes were affected by the interaction between national legislation, the local socio-economic context and the power resources available to works councils at plant level. These factors influenced the extent to which works councils could effectively exercise their information and codetermination rights in order to regulate the wages and working conditions of agency workers. Table 3 shows that the industrial relations institutions are similar across the cases while there is great variation along the other dimensions.

TABLE 3

The timing of workplace agreements in respect to the Hartz reforms distinguishes Auto4 from the other plants, as the works councils could strictly regulate agency work before the reforms were passed. The evidence that employers increased the use of agency work and initially refused to regulate the phenomenon suggests that the reforms were one of the primary drivers of dualization at workplace and deeply affected works' councils bargaining leverage.

The local context also limited works councils' ability to bargain despite their formally strong bargaining rights (Levesque and Murray 2010; Grimshaw and Rubery 1998). All companies experienced the (threat of) outsourcing production segments abroad and were benchmarked against cheaper production sites, especially at Auto1, where benchmarking against potential Eastern European sites took place even before the plant was opened. Findings show similarities in the context of Auto1 and Auto3, as high unemployment rates and the pressure of local authorities and management constrained the negotiations: Compared to Auto2 and Auto4, works councils had to make the biggest concessions on the use of agency work as a stable component of the workforce. Once the political and economic context improved, the Auto3 works council could use its strong workplace institutions to progressively regulate agency work.

At the same time, works councils could partly re-build their power at workplace by using resources beyond their formal information and codetermination rights (Levesque and Murray 2010). At Auto1 the works council built up pressure on the management through the local and national media, also using the IG Metall campaign on agency work as a platform. Furthermore, it took advantage of the changes in the national legislation for bringing the case of agency workers employed in the plant to the local labour court. The Auto2 works council relied on its network embeddedness, involving the local union in the negotiations in order to achieve equal pay for agency workers while at Auto4 the works council exploited the pressure from the US management on the local management to maintain high productivity levels.

This empirical evidence contributes to the growing industrial relations literature focusing on workplace dualization and labour strategies (e.g. Doerflinger and Pulignano, 2015; Pulignano

and Keune, 2015) because it clearly illustrates how the wider context of liberalization and international competition and local external circumstances affect labour strategies and power resources at workplace during negotiations on dualization (Holst 2014). This account is only partly compatible with the dualization literature, which attributes a central role to labour preferences and cross-class coalitions at workplace in the labour market dualization in Germany (Hassel 2014; Palier and Thelen 2010). It was shown that there might be, at least in the Auto3 case, ambiguities in the approach of works councils to the regulation of agency work, as they might not be willing to ensure equal pay and treatment from their first day in order to benefit the company. However, labour preferences - even if they were insider-oriented - played a secondary role in determining workplace arrangements for agency workers compared to the availability of power resources, which derived from national level institutions but also from local contingencies. For instance, Auto3 works council initially rejected the set-up of internal staff agencies, which was then imposed few years later under the pressure of the Hartz reforms and of high unemployment rates. When the political and socio-economic context was more favourable, the works council bargained an encompassing agreement for agency workers.

Therefore, the workplace agreements did not reflect a consensual equilibrium between works councils and management (Hassel 2014) but were rather the result of conflictual micro-political bargaining processes. This article showed that, even in big automotive companies at the core of the German coordinated economy, workplace actors bargained institutional arrangements under the pressure of market forces: employers pursued human resource practices aimed at improving price competitiveness and increasing the shareholder value while labour fought to achieve bargaining arrangements for limiting market competition and improving job security. This account, which highlights the power struggles underlying workplace collective agreements, provides empirical support to Streeck's Polanyian perspective on institutional



change in Germany (2009) and demonstrates the value of incorporating the micro-level insights of industrial relations research into national-level accounts of labour market dualization.

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